International Seabed Authority ISBA/8/C/4

Council

Distr.: General
10 June 2002

Original: English

Eighth session
Kingston, Jamaica
5-16 August 2002

Modalities for financing participation in meetings of the Legal and Technical Commission

Report of the Secretary-General

1. During the seventh session of the Authority, several delegations reminded the Council of the need for financial assistance to enable effective participation in meetings of the Legal and Technical Commission by members from developing countries, noting also that the same issue had been raised at the fifth session of the Authority in 1999.[1] The Council requested the Secretariat to prepare a study of possible modalities for such financial assistance for the current session.[2] In the light of that request, a survey of the practices of the United Nations and various related bodies has been conducted by the Secretariat.

2. The Legal and Technical Commission currently has 24 members. Of these, 17 are from developing States. The estimated cost of a meeting of the Commission of one week's duration (including travel cost and daily subsistence allowance for all 24 members) is US$ 163,800. The estimated cost of supporting the participation of members from developing States alone would be $117,900.

3. Two main options are available for providing financial assistance to members of the Commission from developing States. One option is to establish a voluntary trust fund for such purpose. The other option is to make provision for meetings of the Commission within the administrative budget of the Authority.

4. Within the United Nations system, voluntary contributions are an important source of financing. There are, for example, a number of programmes approved by the General Assembly which are funded in whole or in part by voluntary contributions from Member States, non-member States and other sources. These programmes include, inter alia, the United Nations Children's Fund, the Office of the United Nations High Commissioner for Refugees, the United Nations Relief and Works Agency for Palestine Refugees in the Near East, the United Nations Industrial Development Organization, the United Nations Development Programme and United Nations peacekeeping operations. Voluntary contributions are not treated as part of the regular budget of the United Nations, but are designated as extrabudgetary funds or trust funds. While international organizations create trust funds for various activities, the only general condition for their establishment is that their purposes must fall within the aims of the organization.[3] Generally, special rules, organs and procedures exist for the control of such funds.

5. The Financial Regulations of the Authority contain special provisions relating to trust funds. Trust funds, reserves and special accounts may be established by the Secretary-General and shall be reported to the Finance Committee.[4] The purpose and limits of each trust fund, reserve and special account

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shall be clearly defined by the appropriate organ of the Authority and, unless otherwise provided by the Assembly, such funds and accounts shall be administered in accordance with the Financial Regulations.[5]

6. Most trust funds established by the United Nations and its specialized agencies have been for the purposes of special programmes or activities of a general nature rather than for supporting the participation of representatives of member States in meetings of technical committees. However, in its resolution 55/7 of 30 October 2000, the United Nations General Assembly requested the Secretary-General to establish no less than four voluntary trust funds for purposes relating to the implementation of the Convention. The first such fund has been established for the purpose of defraying the cost of participation of the members of the Commission on the Limits of the Continental Shelf from developing States in the meetings of the Commission.[6] As noted in the report of the Secretary-General on oceans and the law of the sea, the decision to establish the fund was taken notwithstanding the provisions of annex II to the Convention which requires that the State party which submitted the nomination of a member of the Commission shall defray the expenses of that member while in performance of Commission duties.[7] A second voluntary trust fund has been established to provide training for technical and administrative staff, and technical and scientific advice, as well as personnel, to assist developing States, in particular the least developed countries and small island developing States, for the purpose of desktop studies and project planning, and preparing and submitting information under article 76 and annex II to the Convention.[8] Two other voluntary trust funds were established pursuant to the same resolution for the purposes respectively of assisting States in the settlement of disputes through the International Tribunal for the Law of the Sea and assisting developing countries in attending meetings of the Open-ended Informal Consultative Process on developments in ocean affairs.[9]

7. With regard to the second option of making provision for meetings of the Commission within the administrative budget of the Authority, precedent for this can be found in the case of the International Law Commission. Established by the General Assembly of the United Nations in 1947 to promote the progressive development and codification of international law, the Commission is composed of 34 members elected by the General Assembly for five-year terms. Collectively, they represent the principal legal systems of the world, and serve as experts in their individual capacity. The Commission meets annually.[10] According to article 13 of the statute of the Commission, members of the Commission shall be paid travel expenses and receive a special allowance, the amount of which shall be determined by the General Assembly.[11]

8. It should be noted that, in accordance with the Convention and the 1994 Agreement, any decision by the Assembly and the Council relating to the administrative budget of the Authority shall take into account the recommendations of the Finance Committee.

Notes

[1] ISBA/5/C/5.

[2] ISBA/7/C/7, para. 7.

[3] Henry G. Schermers and Niels M. Blokker, *International Institutional Law*, 3rd rev. ed., 1995 (Nijhoff), p. 646. See also United Nations financial regulations 6.6 and 6.7; United Nations financial rules 106.3 and 106.4.

[4] Regulation 5.5.

[5] Regulation 5.6.

[6] General Assembly resolution 55/7, para. 20. The request of the General Assembly was based on a request by the Commission to the Tenth Meeting of the States Parties, which in turn decided to recommend to the General Assembly the establishment of such a trust fund. See A/56/58, para. 66.

[7] A/56/58, para. 66. See also Convention, annex II, article 2, para. 5.

[8] General Assembly resolution 55/7, para. 18.

[9] Ibid., paras. 9 and 45.

[10] *Basic Facts about the United Nations*, United Nations, New York, 1998, p. 261.

[11] *The Work of the International Law Commission*, 5th ed. (United Nations publication, Sales No. 95.V.6), p. 153.